

The Honorable David G. Estudillo

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

OLYMPIC FOREST COALITION, a
Washington non-profit corporation,

Plaintiff,

v.

DULCICH, INCORPORATED, d/b/a
PACIFIC SEAFOOD GROUP, a foreign
corporation,

Defendant.

Case No. 3:22-cv-05652-DGE

STIPULATED MOTION TO DISMISS

Noted: April 19, 2023

Pursuant to Federal Rule of Civil Procedure 41(a), Plaintiff Olympic Forest Coalition and Defendant Dulcich, Incorporated (individually a “Party” and collectively “the Parties”) hereby stipulate to and request dismissal of this action on the following agreed terms. To ensure compliance with 33 U.S.C. § 1365(c)(3), Plaintiff served copies of an unsigned copy of this stipulated motion on the Administrator of the U.S. Environmental Protection Agency and the U.S. Attorney General in January 2023 when it served those entities with the proposed consent decree in *Olympic Forest Coalition v. Coast Seafoods Company*, U.S. District Court for the Western District of Washington case number 3:16-cv-05068-DGE (hereinafter “Coast case”).

STIPULATIONS

Olympic Forest Coalition and Dulcich, Incorporated, stipulate and agree as follows and consent to entry of the dismissal order below:

1. This case concerns a shellfish hatchery at or near 1601 Linger Longer Road, Quilcene, Washington 98376 (hereinafter “Facility”).

2. Plaintiff filed another case about the Facility, which case is captioned *Olympic Forest Coalition v. Coast Seafoods Company*, U.S. District Court for the Western District of Washington case number 3:16-cv-05068-DGE (hereinafter “Coast case”).

3. By entering into this agreement, Dulcich, Incorporated does not admit any factual allegations or claims asserted against it by Plaintiff and it explicitly denies that it is an “owner or operator” of the Facility under the Clean Water Act (“CWA”), 33 U.S.C. § 1251 *et seq.*, and its implementing regulations and/or that it can be held legally liable under the CWA for the acts or alleged omissions of any of its corporate subsidiaries or related companies related to the Facility.

4. The Parties shall not make any disparaging statements about the other Party or the Party’s employees, shareholders, agents, parent companies, or subsidiaries (collectively a Party’s “Affiliates”) to any third party or to the public while the Consent Decree in the Coast case remains in force. A “disparaging statement” is any oral or written statements that would cause or tend to cause the recipient to question the integrity or good character of a Party or its Affiliates, or that is intended to impair relations between a Party or its Affiliates and their respective vendors, customers, or employees.

5. The Parties shall not undermine the stipulations set forth herein, or those set forth in the Stipulations and Consent Decree filed in the Coast case.

6. The Parties shall not delay or undermine issuance of a National Pollutant Discharge Elimination System permit (“NPDES permit”) for the Facility, although all Parties may

1 submit comments to the Washington Department of Ecology (hereinafter “Ecology”) regarding
2 the draft NPDES permit for the Facility.

3 7. The Parties, and any of Dulcich Incorporated’s subsidiaries or related companies,
4 shall not appeal the first final iteration of the NPDES permit that Ecology issues to authorize dis-
5 charges of pollutants from the Facility, public notice of which Ecology published in mid-Decem-
6 ber 2022 under NPDES permit number WA0041114, nor may the Parties or any of Dulcich In-
7 corporated’s subsidiaries or related companies fund or encourage anyone else to appeal that
8 NPDES permit, provided however that the Parties may submit comments to Ecology regarding
9 the draft NPDES permit for the Facility and the Parties may appeal any subsequent final iteration
10 or modification of the NPDES permit for the Facility.
11

12 8. Upon entry of this stipulated motion as an Order of the Court, Plaintiff settles, re-
13 leases, and discharges with prejudice all claims Plaintiff currently has or could have had under
14 the CWA (whether known or unknown) against Defendant Dulcich, Incorporated and its subsidi-
15 aries and each of their officers, directors, shareholders, employees, agents, and consultants, in-
16 cluding but not limited to the claims for alleged violations of the Clean Water Act, 33 U.S.C. §
17 1251 et seq., that are stated in the Notice Letter and Complaint in this case, and all such claims
18 are dismissed with prejudice.
19

20 9. Upon entry of this stipulated motion as an Order of the Court, Defendant Dulcich,
21 Incorporated and its subsidiaries settle, release, and discharge all claims Defendant and its sub-
22 sidiaries currently have or could have had against Plaintiff and its officers, directors, sharehold-
23 ers, employees, agents, and consultants arising out of this CWA lawsuit, including any and all
24 claims for costs and attorneys’ fees that Defendant or its subsidiaries have or could have had
25 against Plaintiff, and all such claims are dismissed with prejudice.
26
27
28

